

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND Office of Energy Resources
NOTICE OF PUBLIC HEARING

The Commissioner of the Rhode Island Office of Energy Resources (RIOER) has under consideration proposed new **RULES AND REGULATIONS REGARDING THE ALLOCATION AND DISTRIBUTION OF REGIONAL GREENHOUSE GAS AUCTION PROCEEDS**. The proposed rules are promulgated in accordance with Sections 42-140-3, 42-140-4, 42-140-9, 23-83-6 and Chapter 42-35 of the General Laws of Rhode Island, as amended, and shall establish a plan for allocation and distribution of Regional Greenhouse Gas Initiative auction proceeds.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that a public hearing on the above proposed rules and regulations shall be held on Friday April 3, 2009, at 10:00 a.m. in Conference Room B in the William E. Powers Building (Department of Administration Building), One Capitol Hill, Providence, Rhode Island, at which time and place all persons interested will be heard.

In the development of the proposed rules and regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which may result from these regulations. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed regulations are available for public inspection at the Office of Andrew Dzykewicz, RIOER Commissioner, Department of Administration, One Capitol Hill, 100 Providence, Rhode Island 02908, or by calling 401-574-9124, or by sending an email to: Charles Hawkins at chawkins@energy.ri.gov. Copies may also be viewed on the RIOER website at <http://www.energy.ri.gov>. In conformance with Section 42-35-3(a)(1) of the General Laws of Rhode Island, copies of a concise summary of the proposed rules will be available upon request.

For the sake of accuracy, it is requested that statements made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Andrew Dzykewicz, RIOER Commissioner, Department of Administration, One Capitol Hill, Providence, RI 02908. Oral statements made at the public hearing will be considered, but should be limited to five minutes each.

Conference Room B is accessible to individuals with disabilities. Individuals requesting interpreter services for the hearing impaired must call James Pitassi at 222-6395 at least forty-eight (48) hours in advance of the hearing date.

Signed this 26th day of February, 2009



Andrew Dzykewicz
Commissioner, Rhode Island Office of Energy Resources

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND Department of Administration
Office of Energy Resources

RULES AND REGULATIONS
REGARDING ADOPTION OF 2009 PLAN FOR THE ALLOCATION AND
DISTRIBUTION OF REGIONAL GREENHOUSE GAS INITIATIVE AUCTION
PROCEEDS

Concise Explanatory Statement Pursuant to RIGL § 42-35-3(a)(1)

R.I. General Law § 23-82-6 (a) directs the Office of Energy Resources (office) in consultation with the Department of Environmental Management (department) and the Energy Efficiency and Resource Management Council (council) to prepare an annual proposal to allocate the allowance proceeds from RGGI auctions or sales for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs. Quarterly auctions will take place in 2009.

Rhode Island took part in the first two Regional Greenhouse Gas Initiative (RGGI) auctions of CO₂ allowances¹ on September 25, 2008 and December 17, 2008 in accordance with R.I. Gen. Law §23-82, as amended, as well as with DEM Air Pollution Control Regulation Nos. 46 and 47. The Rhode Island CO₂ Budget Trading Program base budget for 2009 through 2014 is 2,659,239 tons of CO₂ per year.

The Plan proposes to allocate the net proceeds received from the RGGI allowance auctions/sales during the first two quarters of 2008 and the first three quarters of 2009, after deductions for administrative costs, as follows:

- Sixty percent to the Least Cost Procurement Energy Efficiency Utility Account at National Grid for the sole purpose of supplementing and expanding energy efficiency efforts consistent with the PUC approved Energy Efficiency (EE) Procurement Plan and annual Energy Efficiency Program Plans for the investment in all cost-effective energy efficiency programs and projects that are lower cost than supply and reduce long-term consumer energy demands and costs.
- Forty percent to the Innovative Financing and Partnership Account at the Utility for the sole purpose of investing in new partnerships, research, and pilot programs including innovative financing options and partnerships that can drive efficiency program development and enhancements to accelerate and broaden the energy savings for Rhode Islanders.

¹ One CO₂ allowance is the authority to emit one ton of CO₂.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
OFFICE OF ENERGY RESOURCES

2009 PLAN FOR THE ALLOCATION AND DISTRIBUTION OF
REGIONAL GREENHOUSE GAS INITIATIVE AUCTION PROCEEDS

March 2009

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
OFFICE OF ENERGY RESOURCES

ANNUAL 2009 PLAN FOR ALLOCATION AND DISTRIBUTION OF
REGIONAL GREENHOUSE GAS INITIATIVE AUCTION PROCEEDS

1. Definitions

As used in these regulations, the following terms shall be construed as follows where the context permits:

1.1. **“Auction”** means the CO₂ Allowance auction or sale conducted pursuant to RIGL 23-82-5.

1.2. **“Auction or Sale Proceeds”** means revenue earned through the Auction of Sale of RGGI allowances

1.3. **“Council”** means the Rhode Island Energy Efficiency and Resources Management Council (EERMC)

1.4. **“Department”** means the Rhode Island Department of Environmental Management.

1.5. **“Department Account”** means the Rhode Island Auction/Sale Account established by the Department into which Rhode Island CO₂ allowances shall be allocated.

1.6. **“Energy Service Company (ESCO)”** means a business that develops, installs, and finances projects to improve energy efficiency and reduce operation and maintenance costs of operating facilities. ESCOs generally act as project developers and assume the technical and performance risk for projects. Performance-based contracting sets ESCOs apart from other firms that offer energy efficiency improvements since the ESCOs’ compensation is directly linked to the amount of energy that is actually saved due to their efforts.

1.7. **“Innovative Financing and Partnership Account”** means the dedicated new utility account from which RGGI funds shall be used for the sole purpose of supporting innovative financing partnerships and other innovative partnerships for enhancing efficiency delivery and carbon capture.

1.8. **“Least Cost Procurement Energy Efficiency Utility Account”** or **“LCP Utility Account”** means the dedicated new utility account from which RGGI funds shall be used for the sole purpose of implementing new energy efficiency efforts consistent with three year Energy Efficiency (EE) Procurement Plans and annual Program Plans

for the investment in all cost-effective efficiency resources that are lower cost than supply.

1.9. **“Lifecycle Greenhouse Gas Emissions”** means the total greenhouse gas emissions required to produce, transport, and use a fuel source for electricity generation.

1.10. **“Office”** means the Rhode Island Office of Energy Resources.

1.11. **“Regional Greenhouse Gas Initiative or RGGI”** means the Regional Greenhouse Gas Initiative, a cooperative effort by Northeastern and Mid-Atlantic states to reduce carbon dioxide emissions through implementation of a multi-state cap-and-trade program with a market-based emissions trading system.

1.12. **“Utility”** means the distribution utility serving Rhode Island electric power consumers and providing energy efficiency programs and services, currently National Grid.

2. Background and Legislative Mandate

Rhode Island participated in the first two Regional Greenhouse Gas Initiative (“RGGI”) auctions of CO₂ allowances¹ on September 25, 2008 and December 17, 2008 in accordance with R.I. Gen. Law §23-82, as amended, as well as DEM Air Pollution Control Regulation Nos. 46 and 47. The Rhode Island CO₂ Budget Trading Program base budget for 2009 through 2014 is 2,659,239 tons of CO₂ annually. RGGI Inc. plans to hold quarterly auctions in 2009. The United State Congress plans to draft Climate Change legislation in 2009, which is likely to preempt RGGI in whole or in part.

APC Regulation No. 47 directs the Department to establish and administer the Rhode Island auction/sale account. The Department is directed to auction nearly 100% of Rhode Island allowances in order to maximize the state's contribution to lowering carbon emissions while minimizing impacts on electric system reliability and costs to Rhode Island power consumers over the long term, as set out in R.I. General Law § 23-82-2.

R.I. General Law § 23-82-6 (a) directs the Office “in consultation with the department and the council” to prepare annual proposals to allocate the allowance proceeds for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs.

In compliance with the statutory requirement, the Office consulted with the Council and the Department in several meetings including the Council’s August 14, 2008, November 13, 2008 meetings and January 15, 2009 as well as the October 30 2008 Council subcommittee meeting.

A number of constituents contacted the Office to offer proposals for use of the funds. The proposals included providing assistance to such entities as municipalities, groups of

¹ One CO₂ allowance is the authority to emit one ton of CO₂.

municipalities, and small non-profit agencies for projects including innovative financing for efficiency measures, assistance in working with Energy Service Companies, and providing training for auditors and efficiency service providers. The proposals are summarized in Appendix A.

This proposal applies to the RGGI allowance proceeds generated during the first two quarters of 2008 and the first three quarters of 2009. The office is seeking public comment on its proposal.

3. Findings

After consultation with the department and the council the office makes the following findings:

3.1. Energy efficiency is the most cost effective way at this time to meet the obligation under R.I. General Law § 23-82-6 for the funds to be used “for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs.”

3.1.1 The 2008 Rhode Island Energy Efficiency and Resources Management Council’s *Opportunity Report*² found:

3.1.1.1. Efficiency programs in Rhode Island deliver energy savings for ratepayers at 3 cents per lifetime kWh, while supply costs 12.5 cents per kWh.

3.1.1.2. Efficiency investments could be increased to \$78.5 million from the current level of \$16 million per year at a cost of between 3 and 4 cents per lifetime kWh saved.

3.1.1.3. By 2018, investing in this economic energy efficiency potential would reduce forecasted load by 1,885 GWhs; reduce peak demand by 216 MW; and produce \$1.17 billion in energy savings for Rhode Island ratepayers.

² Rhode Island Energy Efficiency and Resources Management Council (EERMC) Opportunity Report – Phase I July 15, 2008 pp. 1-12 to 1-17.

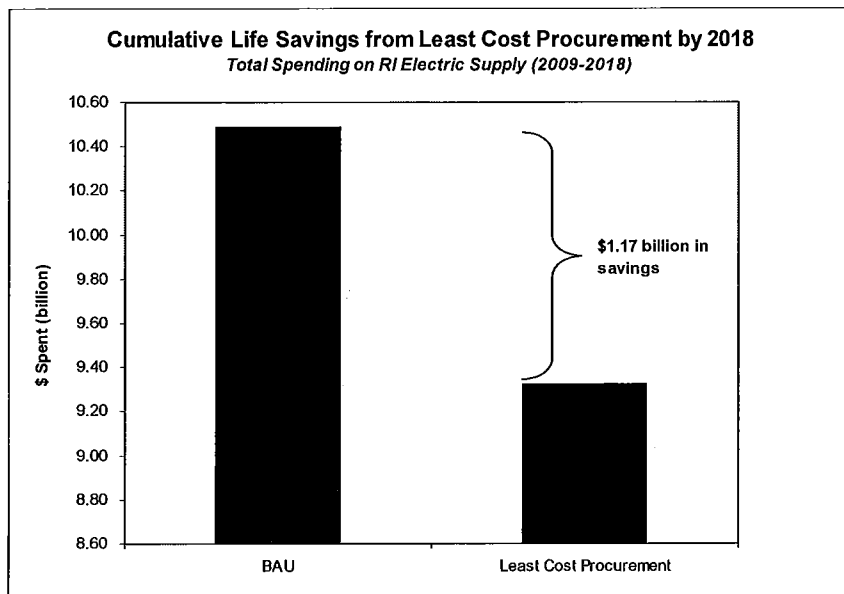


Figure 1-11 on page 1-15 of the EERMC Opportunity Report July 2009

3.1.1.4. Investments in non-carbon emitting energy technologies typically cost more than the market price for conventional electricity of 12.5 cents per kWh.

3.2. There is a need for research and pilot programs that can drive efficiency program development and enhancements to accelerate and broaden the energy savings for Rhode Islanders, and to advance coordination, innovation, and new capabilities that will make energy use more affordable for the people of Rhode Island.

3.3. Increased investment of RGGI allowance revenues in energy efficiency and in training of efficiency services personnel will drive and support the need for more green investment and jobs in the state, creating job opportunities not only for auditors, installers and monitoring and verification personnel but for training personnel.

3.4. Investment in energy efficiency initiatives that reduce electricity demand should be the priority for the use of the RGGI auction proceeds, pursuant to the design and purpose of RGGI to reduce carbon dioxide emissions from electricity generation, while minimizing impacts to electricity ratepayers and maximizing consumer benefits.

4. Allocation of Auction Proceeds

RGGI auction or sale proceeds for Rhode Island's 2009 vintage and a percentage of 2012 vintage allowances shall be allocated for the following uses in the state of Rhode Island.

4.1. Dues, fees and auction expenses of RGGI Inc., which RGGI Inc. will deduct before transmitting the remainder of the allowance funds to the OER account in accordance with 23-82-5 (d).

4.2 Up to three hundred thousand dollars (\$300,000) or five percent (5%) of the proceeds per year, whichever is less, shall be used for reasonable Department and Office costs associated with participation in the RGGI program and distribution of auction or sale proceeds in accordance with § 23-82-6 (6).

4.3. Of the proceeds remaining after the deduction of the administrative funds in Sections 4.1 and 4.2 above:

4.3.1. Sixty percent shall be allocated to the Least Cost Procurement Energy Efficiency Utility Account at the Utility for the sole purpose of supplementing and expanding energy efficiency efforts consistent with the PUC approved Energy Efficiency (EE) Procurement Plan and annual efficiency Program Plans for investment in all cost-effective energy efficiency programs and projects that are lower cost than supply and reduce long-term consumer energy demands and costs.

4.3.2. Forty percent shall be allocated to the Innovative Financing and Partnership Account at the Utility for the sole purpose of investing in new partnerships, research, and pilot programs including innovative financing options and partnerships that can drive efficiency program development and enhancements to accelerate and broaden the energy savings for Rhode Islanders.

5. Eligible Parties and Projects

5.1. Eligible parties include: state agencies, municipalities and groups of municipalities, small non-profit agencies, small commercial and industrial companies and institutions of higher education.

5.2 Eligible projects include:

5.2.1. Financial assistance to small commercial and industrial companies to research and develop innovative ways to move aggressively toward least cost procurement of energy efficiency services in the 2010 and 2011 National Grid program years.

5.2.2. Development of new marketing approaches to provide one stop, easy access to information on utility energy efficiency initiatives.

5.2.3. Innovative programs to provide low cost financing for residential energy efficiency measures that reduce electricity demand.

5.2.4. Energy Information Report Systems that directly download electric data from utilities to benchmark energy performance of buildings and facilities owned

and operated by state agencies, municipalities, small non-profits and church congregations.

5.2.5. Technical assistance to municipalities, groups of municipalities, and small non-profit agencies in preparing and reviewing Requests For Proposals, and contracts for Energy Service Company services; and providing quality control for installation and operation of equipment and systems to insure that projected energy and cost savings are achieved.

5.2.6. Training of individuals and contractors in performing energy audits, installing energy efficiency measures, and conducting monitoring and verification reviews of efficiency installations.

5.2.7. Financing mechanisms and financial incentives for investments in efficiency installation equipment.

5.2.8. Training of facility managers on simple energy efficiency measures that can be done by maintenance staff as well as operation and maintenance to improve energy performance of buildings.

5.2.9. Training and incentives for other key parties such as HVAC service people to provide efficiency audits during annual service calls and to provide and promote high efficiency heating and cooling equipment for replacement of worn or malfunctioning systems

5.2.10. Financial assistance to non-profits that serve low income neighborhoods to cover the incremental costs of energy efficiency measures that are not covered by utility incentive programs, ESCO energy savings or other incentive programs.

5.2.11. Research and development of fuel-neutral efficiency programs.

5.2.12. Energy efficiency assistance to pollution prevention and abatement facilities that use large amounts of energy such as drinking water treatment plants and wastewater treatment plants.

6. Tracking and Reporting

6.1. The Office shall require a report from the Utility describing results from the supplemental and expanded energy efficiency efforts. The report shall be submitted to the Office, the Council and the Department annually on March 1 and made available to the public. The Report may be in the form specified by the PUC for the utility efficiency effort, but shall indicate the increased level of effort and energy and consumer savings of any new initiatives facilitated by the auction proceeds.

The Office and Council will determine the success of the Utility's investment of auction proceeds for energy efficiency efforts consistent with the PUC approved

EE Procurement Plan based on the success the Utility has in reducing overall electric bills in Rhode Island compared to what bills would have been without the investment. The Utility must show: (a) what average electric bills in Rhode Island would have been without the use of RGGI proceeds for efficiency investments in the EE Procurement and Program Plans; and (b) what the actual total electric bills in Rhode Island were with the use of RGGI proceeds.

Details the Utility shall provide in the report shall include a detailed description and quantification of: (1) program costs; (2) program energy and cost savings; (3) net savings in dollars for Rhode Islanders; (4) benefit-cost ratio of these efforts; (5) a detailed description of the effectiveness of the efficiency investments; (6) a detailed description of the success or plans for new partnerships, research, and pilot programs including innovative financing options and partnerships.

7. General Notes and Severability

The terms and provisions of this Plan shall be liberally construed to permit the Office to effectuate the purposes of state law, goals and policies, and to facilitate integrated and seamless delivery of energy efficiency programs.

If any provision of this Plan or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Plan shall not be affected thereby.

8. Authority

Pursuant to the provisions of Sections 42-140-3, 42-140-4, 42-140-9, 23-83-6 and Chapter 42-35 of the Rhode Island General Laws, the Rhode Island Office of Energy Resources hereby adopts and establishes the within Plan for the Allocation and Distribution of Regional Green Gas Initiative Auction Proceeds.

The within Plan for the Allocation and Distribution of Regional Green Gas Initiative Auction Proceeds was adopted by me as Commissioner of the Office of Energy Resources on the _____ day of March, 2009.

Andrew Dzykewicz
Commissioner, Office of Energy Resources

Appendix A. Summary of Proposals Received to Date

The office has received a range of proposals for RGGI funding as described below:

1. The Aquidneck Island Planning Commission (IPC) and Peoples Power and Light proposed an Intensive, Comprehensive and Integrated Energy Efficiency Program to be administered by the AIPC to determine the feasibility of reducing electricity demand by a sufficient amount to eliminate the need for a proposed new transmission line on the island.
2. Interfaith Power and Light proposed financial assistance to low-income houses of worship for energy efficiency improvement, particularly for hiring engineers to propose and oversee contracts with ESCOs and to pay for incremental costs of efficiency improvements.
3. Rhode Island Housing and the OER proposed that up to \$800,000 be used to facilitate a Home Energy Improvement Loan Program to facilitate energy efficiency performance contracting and low-interest energy efficiency equity loans from RI Housing for low/moderate income residents who do not qualify for Low Income Heating assistance but cannot finance efficiency capital projects on their own.
4. The DEM made two proposals:
 - a. Funding for energy efficiency retrofits at high energy facilities that provide pollution prevention or abatement such as drinking water treatment plants or wastewater treatment plants.
 - b. A de minimis amount of funding for and in-state or regional research and development project that would complement efforts of the United States DOE National Energy Technology Laboratory 's carbon capture project that would preserve the diversity of energy sources serving the state and reduce the cost of capturing and sequestering CO₂ from fossil fueled electricity generation plants.
5. The City of Providence proposed a program to
 - a. cover the up-front cost of doing an installation energy efficiency and clean energy installations,
 - b. provide for a repayment structure that is spread out over the long-term, tied to the property, and secure enough to lower the cost of capital
 - c. Ensure that the work done with the money create jobs for individuals in workforce development programs